

(Pub. L. 108–199, div. D, title VI, §616, Jan. 23, 2004, 118 Stat. 224; Pub. L. 109–13, div. A, title II, §2109, May 11, 2005, 119 Stat. 268.)

#### AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–13 substituted “sub-section (a) or (b) of section 7705” for “subparagraphs (A) and (B) of section 7705(a)(1)”.

### § 7716. General personnel authorities

#### (a) Detail of personnel

Upon request of the Chief Executive Officer, the head of an agency may detail any employee of such agency to the Corporation on a reimbursable basis. Any employee so detailed remains, for the purpose of preserving such employee’s allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed.

#### (b) Reemployment rights

##### (1) In general

An employee of an agency who is serving under a career or career conditional appointment (or the equivalent), and who, with the consent of the head of such agency, transfers to the Corporation, is entitled to be reemployed in such employee’s former position or a position of like seniority, status, and pay in such agency, if such employee—

(A) is separated from the Corporation for any reason, other than misconduct, neglect of duty, or malfeasance; and

(B) applies for reemployment not later than 90 days after the date of separation from the Corporation.

##### (2) Specific rights

An employee who satisfies paragraph (1) is entitled to be reemployed (in accordance with such paragraph) within 30 days after applying for reemployment and, on reemployment, is entitled to at least the rate of basic pay to which such employee would have been entitled had such employee never transferred.

#### (c) Hiring authority

Of persons employed by the Corporation, not to exceed 30 persons may be appointed, compensated, or removed without regard to the civil service laws and regulations.

#### (d) Basic pay

The Chief Executive Officer may fix the rate of basic pay of employees of the Corporation without regard to the provisions of chapter 51 of title 5 (relating to the classification of positions), subchapter III of chapter 53 of such title (relating to General Schedule pay rates), except that no employee of the Corporation may receive a rate of basic pay that exceeds the rate for level II of the Executive Schedule under section 5313 of such title.

#### (e) Definitions

In this section—

(1) the term “agency” means an executive agency, as defined by section 105 of title 5; and

(2) the term “detail” means the assignment or loan of an employee, without a change of position, from the agency by which such employee is employed to the Corporation.

(Pub. L. 108–199, div. D, title VI, §617, Jan. 23, 2004, 118 Stat. 224.)

#### REFERENCES IN TEXT

The civil service laws, referred to in subsec. (c), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

### § 7717. Personnel outside the United States

#### (a) Assignment to United States embassies

An employee of the Corporation, including an individual detailed to or contracted by the Corporation, may be assigned to a United States diplomatic mission or consular post or a United States Agency for International Development field mission.

#### (b) Privileges and immunities

The Secretary of State shall seek to ensure that an employee of the Corporation, including an individual detailed to or contracted by the Corporation, and the members of the family of such employee, while the employee is performing duties in any country or place outside the United States, enjoy the privileges and immunities that are enjoyed by a member of the Foreign Service, or the family of a member of the Foreign Service, as appropriate, of comparable rank and salary of such employee, if such employee or a member of the family of such employee is not a national of or permanently resident in such country or place.

#### (c) Responsibility of chief of mission

An employee of the Corporation, including an individual detailed to or contracted by the Corporation, and a member of the family of such employee, shall be subject to section 3927 of this title in the same manner as United States Government employees while the employee is performing duties in any country or place outside the United States if such employee or member of the family of such employee is not a national of or permanently resident in such country or place.

(Pub. L. 108–199, div. D, title VI, §618, Jan. 23, 2004, 118 Stat. 225.)

### § 7718. Authorization of appropriations

#### (a) Authorization of appropriations

There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 2004 and 2005.

#### (b) Allocation of funds

##### (1) In general

The Corporation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this chapter. Such funds shall be available for obligation and expenditure for the purposes for which the funds were authorized, in accordance with authority granted in this chapter or under authority governing the activities of the United States Government agency to which such funds are allocated or transferred.

##### (2) Notification

The Corporation shall notify the appropriate congressional committees not less than 15

days prior to an allocation or transfer of funds pursuant to paragraph (1).

(Pub. L. 108–199, div. D, title VI, § 619, Jan. 23, 2004, 118 Stat. 225.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), was in the original “this title”, meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

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### § 7801. Findings

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is “a dictatorship under the absolute rule of Kim Jong Il” that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher edu-

cation, place of residence, medical facilities, and other resources.

(5) According to the Department of State, “[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of ‘crimes against the revolution,’ including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing ‘reactionary’ letters, and possessing reactionary printed matter”.

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, “[g]enuine religious freedom does not exist in North Korea” and, according to the United States Commission on International Religious Freedom, “[t]he North Korean state severely represses public and private religious activities” with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site

visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere "economic migrants" and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the ab-

duction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

(Pub. L. 108-333, § 3, Oct. 18, 2004, 118 Stat. 1287.)

#### SHORT TITLE

Pub. L. 108-333, § 1, Oct. 18, 2004, 118 Stat. 1287, provided that: "This Act [enacting this chapter] may be cited as the 'North Korean Human Rights Act of 2004'."

### § 7802. Purposes

The purposes of this chapter are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

(Pub. L. 108-333, § 4, Oct. 18, 2004, 118 Stat. 1290.)

### § 7803. Definitions

In this chapter:

#### (1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

#### (2) China

The term "China" means the People's Republic of China.

#### (3) Humanitarian assistance

The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

#### (4) North Korea

The term "North Korea" means the Democratic People's Republic of Korea.

#### (5) North Koreans

The term "North Koreans" means persons who are citizens or nationals of North Korea.

#### (6) South Korea

The term "South Korea" means the Republic of Korea.

(Pub. L. 108-333, § 5, Oct. 18, 2004, 118 Stat. 1290.)

## SUBCHAPTER I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

### § 7811. Sense of Congress regarding negotiations with North Korea

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

(Pub. L. 108-333, title I, §101, Oct. 18, 2004, 118 Stat. 1290.)

**§ 7812. Support for human rights and democracy programs**

**(a) Support**

The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

**(b) Authorization of appropriations**

**(1) In general**

There are authorized to be appropriated to the President \$2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

**(2) Availability**

Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(Pub. L. 108-333, title I, §102, Oct. 18, 2004, 118 Stat. 1290.)

**§ 7813. Radio broadcasting to North Korea**

**(a) Sense of Congress**

It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

**(b) Report**

Not later than 120 days after October 18, 2004, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

- (1) describes the status of current United States broadcasting to North Korea; and
- (2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

(Pub. L. 108-333, title I, §103, Oct. 18, 2004, 118 Stat. 1291.)

**§ 7814. Actions to promote freedom of information**

**(a) Actions**

The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of receiving broadcasting from outside North Korea.

**(b) Authorization of appropriations**

**(1) In general**

There are authorized to be appropriated to the President \$2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

**(2) Availability**

Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

**(c) Report**

Not later than 1 year after October 18, 2004, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

(Pub. L. 108-333, title I, §104, Oct. 18, 2004, 118 Stat. 1291.)

**§ 7815. United Nations Commission on Human Rights**

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

- (1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

- (2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

(Pub. L. 108-333, title I, §105, Oct. 18, 2004, 118 Stat. 1291.)

**§ 7816. Establishment of regional framework**

**(a) Findings**

The Congress finds that human rights initiatives can be undertaken on a multilateral basis, such as the Organization for Security and Cooperation in Europe (OSCE), which established a regional framework for discussing human rights, scientific and educational cooperation, and economic and trade issues.

**(b) Sense of Congress**

It is the sense of Congress that the United States<sup>1</sup> should explore the possibility of a re-

<sup>1</sup> So in original. Probably should be “States”.

gional human rights dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights and fundamental freedoms.

(Pub. L. 108-333, title I, § 106, Oct. 18, 2004, 118 Stat. 1292.)

### **§ 7817. Special Envoy on human rights in North Korea**

#### **(a) Special Envoy**

The President shall appoint a special envoy for human rights in North Korea within the Department of State (hereafter in this section referred to as the “Special Envoy”). The Special Envoy should be a person of recognized distinction in the field of human rights.

#### **(b) Central objective**

The central objective of the Special Envoy is to coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea.

#### **(c) Duties and responsibilities**

The Special Envoy shall—

(1) engage in discussions with North Korean officials regarding human rights;

(2) support international efforts to promote human rights and political freedoms in North Korea, including coordination and dialogue between the United States and the United Nations, the European Union, North Korea, and the other countries in Northeast Asia;

(3) consult with non-governmental organizations who have attempted to address human rights in North Korea;

(4) make recommendations regarding the funding of activities authorized in section 7812 of this title;

(5) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; and

(6) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13.

#### **(d) Report on activities**

Not later than 180 days after October 18, 2004, and annually for the subsequent 5 year-period,<sup>1</sup> the Special Envoy shall submit to the appropriate congressional committees a report on the activities undertaken in the preceding 12 months under subsection (c).

(Pub. L. 108-333, title I, § 107, Oct. 18, 2004, 118 Stat. 1292.)

## **SUBCHAPTER II—ASSISTING NORTH KOREANS IN NEED**

### **§ 7831. Report on United States humanitarian assistance**

#### **(a) Report**

Not later than 180 days after October 18, 2004, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the

Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in subparagraphs (A) through (D) of section 7832(b)(1) of this title; and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

#### **(b) Form**

The information required by subsection (a)(1) may be provided in classified form if necessary.

(Pub. L. 108-333, title II, § 201, Oct. 18, 2004, 118 Stat. 1293; Pub. L. 108-447, div. D, title V, § 534(j), Dec. 8, 2004, 118 Stat. 3007.)

#### **AMENDMENTS**

2004—Subsec. (a)(2). Pub. L. 108-447 substituted “subparagraphs (A) through (D) of section 7832(b)(1) of this title” for “paragraphs (1) through (4) of section 7832(b) of this title”.

### **§ 7832. Assistance provided inside North Korea**

#### **(a) Humanitarian assistance through nongovernmental and international organizations**

It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

#### **(b) United States assistance to the government of North Korea**

It is the sense of Congress that—

(1) United States humanitarian assistance to any department, agency, or entity of the Government of North Korea shall—

(A) be delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(B) be provided on a needs basis, and not used as a political reward or tool of coercion;

<sup>1</sup> So in original. Probably should be “5-year period.”.

(C) reach the intended beneficiaries, who should be informed of the source of the assistance; and

(D) be made available to all vulnerable groups in North Korea, no matter where in the country they may be located; and

(2) United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress toward—

(A) respect for the basic human rights of the people of North Korea, including freedom of religion;

(B) providing for family reunification between North Koreans and their descendants and relatives in the United States;

(C) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(D) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(E) reforming the North Korean prison and labor camp system, and subjecting such reforms to independent international monitoring; and

(F) decriminalizing political expression and activity.

#### (c) Report

Not later than 180 days after October 18, 2004, the Administrator of the Agency for International Development shall submit to the appropriate congressional committees a report describing compliance with this section.

(Pub. L. 108-333, title II, §202, Oct. 18, 2004, 118 Stat. 1293.)

### § 7833. Assistance provided outside of North Korea

#### (a) Assistance

The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

#### (b) Types of assistance

Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 7102(14) of this title, or are in danger of being trafficked.

#### (c) Authorization of appropriations

##### (1) In general

In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President \$20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

##### (2) Availability

Amounts appropriated pursuant to the authorization of appropriations under paragraph

(1) are authorized to remain available until expended.

(Pub. L. 108-333, title II, §203, Oct. 18, 2004, 118 Stat. 1294.)

### SUBCHAPTER III—PROTECTING NORTH KOREAN REFUGEES

### § 7841. United States policy toward refugees and defectors

#### (a) Report

Not later than 120 days after October 18, 2004, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

#### (b) Contents

The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past 5 years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 7843 of this title.

#### (c) Form

The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

(Pub. L. 108-333, title III, §301, Oct. 18, 2004, 118 Stat. 1295.)

### § 7842. Eligibility for refugee or asylum consideration

#### (a) Purpose

The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United

States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

**(b) Treatment of nationals of North Korea**

For purposes of eligibility for refugee status under section 1157 of title 8, or for asylum under section 1158 of title 8, a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea. (Pub. L. 108-333, title III, §302, Oct. 18, 2004, 118 Stat. 1295.)

**§ 7843. Facilitating submission of applications for admission as a refugee**

The Secretary of State shall undertake to facilitate the submission of applications under section 1157 of title 8 by citizens of North Korea seeking protection as refugees (as defined in section 1101(a)(42) of title 8).

(Pub. L. 108-333, title III, §303, Oct. 18, 2004, 118 Stat. 1296.)

**§ 7844. United Nations High Commissioner for Refugees**

**(a) Actions in China**

It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the "UNHCR Mission Agreement");

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective "first asylum" policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

**(b) Arbitration proceedings**

It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

(Pub. L. 108-333, title III, §304, Oct. 18, 2004, 118 Stat. 1296.)

**§ 7845. Annual reports**

**(a) Immigration information**

Not later than 1 year after October 18, 2004, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this subchapter during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

**(b) Countries of particular concern**

The President shall include in each annual report on proposed refugee admission pursuant to section 1157(d) of title 8, information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 6442(b) of this title. The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

(Pub. L. 108-333, title III, §305, Oct. 18, 2004, 118 Stat. 1297.)